

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: SWIFT ENERGY COMPANY, et al.,	:	
	:	Bankruptcy Case No. 15-12670 (MFW)
Debtors.	:	BAP No. 16-18
	:	
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	:	
MORRIS PROPP, MORRIS PROPP II	:	
FOUNDATION,	:	
	:	
Appellant,	:	
	:	
v.	:	C. A. No. 16-265-GMS
	:	
SWIFT ENERGY COMPANY.	:	
	:	
Appellee.	:	

RECOMMENDATION

At Wilmington this **16th** day of **May, 2016.**

WHEREAS, pursuant to paragraph 2(a) of the Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District dated September 11, 2012, the court conducted an initial review, which included information from counsel, to determine the appropriateness of mediation in this matter;

WHEREAS, as a result of the above screening process, the issues involved in this case are not amenable to mediation and mediation at this stage would not be a productive exercise, a worthwhile use of judicial resources nor warrant the expense of the process.

The parties agree that mediation in this matter would not be beneficial or productive. Appellee argues that it intends to seek an injunction from Bankruptcy Court ordering withdraw of this appeal because it contends the appeal was taken in violation

of a contract, and Appellants seek to unwind the confirmation of the Plan through this appeal. Appellee maintains that any attempt to unwind the confirmation of the Plan is moot and mediation in this Court would add additional cost and expense. Appellants disagree with Appellee's analysis of the merits of appeal, but agree mediation would not be productive.

THEREFORE, IT IS RECOMMENDED that, pursuant to paragraph 2(a) Procedures to Govern Mediation of Appeals from the United States Bankruptcy Court for this District and 28 U.S.C. § 636(b), this matter be withdrawn from the mandatory referral for mediation and proceed through the appellate process of this Court. The parties are advised of their right to file objections to this Recommendation pursuant to 28 U.S.C. § 636(b)(1)(B), FED. R. CIV. P. 72(a) and D. DEL. LR 72.1. In light of their respective positions regarding mediation, no objections are expected.

The parties further request that the following brief schedule be entered:

Opening Brief	The later of (i) June 20, 2016 or (ii) 60 days after entry of an Order withdrawing the matter from mediation.
Answering Brief	45 days after filing and service of opening brief
Reply Brief	21 days after filing and service of the answering brief

Local counsel are obligated to inform out-of-state counsel of this Order.

/s/ Mary Pat Thyng
UNITED STATES MAGISTRATE JUDGE